

**REMARKS/ARGUMENTS**

Claims 1, 2, 6-8 and 17-25 are pending in the application. The claims have not been substantively amended. Claims 1 and 22 have been amended to correct minor informalities and do not affect their scope.

Claims 1, 2, 6-8 and 17-25 are rejected under 35 USC §102(e) as being anticipated by US Patent 6,304,980 by Beardsley et al.

A distinguishing feature in the independent claims is a first path for data backups and a second path for data backups. More specifically, claim 1 recites “one group of the selected resources and selected routes as a first path” and “another group of the selected resources and selected routes as a second path.” See similarly recites elements in independent claims 17, and 22.

Beardsley et al. show a primary DASD and a second DASD; e.g., Figs. 1 and 2 (Fig. 2 also shows a control info. DASD, 217). Since the figures show only one primary DASD and one second DASD, Beardsley et al. do not show or suggest “one group of the selected resources and selected routes as a first path” and “another group of the selected resources and selected routes as a second path.” as recited in claim 1 and similarly in claims 17 and 22.

Fig. 1 shows the primary DASD is connected to the same second DASD (216) via the peer-to-peer links 108. Nonetheless, Beardsley et al. do not show “one group of the selected resources and selected routes as a first path” and “another group of the selected resources and selected routes as a second path” as recited in claim 1 and similarly recited in claims 17 and 22, because the links 108 connect the primary DASD to only the one second DASD.

The examiner cited Beardsley et al. at col. 11, lines 34-42, col. 12, lines 31-63, and col. 13, line 54 to col. 14, line 42 for allegedly showing the first and second paths. However, a review of col. 11, lines 34-42 and col. 12, lines 31-63 reveals that the text is describing the operation of a controller 325 shown in Fig. 3. The diagram of Fig. 3 shows the detail of one of the primary or secondary sites; “FIG. 3 provides a more detailed example of a primary or secondary storage site... .”, *col. 10, line 58-60*. Beardsley’s discussion about the details of one of the primary or secondary sites does not show or suggest the recited “one group of the selected

resources and selected routes as a first path" and "another group of the selected resources and selected routes as a second path" of claim 1, or of the similarly recited elements of claims 17 or claim 22.

Col. 11, lines 34-42 and col. 12, lines 31-63 discuss a component of the controller 325, namely, SCA 401 as shown in Fig. 4. Again, the SCA 401 is a component within one of the primary or secondary sites. Therefore, even though the SCA 401 shows four storage paths, they are paths to the *same* DASD within the one site (be it the primary site or the secondary site). Again, Beardsley et al. do not show or suggest the recited "one group of the selected resources and selected routes as a first path" and "another group of the selected resources and selected routes as a second path" of claim 1, or of the similarly recited elements of claims 17 or claim 22.

A review of col. 13, line 54 to col. 14, line 42 reveals a discussion about the "reserve operation" as shown in Fig. 5. A review of the flowchart and the corresponding explanation of Fig. 5 does not show or suggest the "one group of the selected resources and selected routes as a first path" and "another group of the selected resources and selected routes as a second path" as recited in claim 1 and similarly recited in claims 17 and 22.

The examiner cited col. 17, line 54 to col. 18, line 6 for allegedly showing the recited "changing from the first path to the second path if a problem is detected" as recited in claim 1. Independent claims 17 and 22, each recites a similar element. This cited portion of Beardsley et al., however, relates to a process referred to as "device swap." Column 15, lines 33-44 and col. 17, lines 3-39, also cited by the examiner, discuss the "device swap" operation. This operation merely results in a reversal of the roles played by the primary DASD and the secondary DASD. *Col. 15, lines 55-57.* The operation, therefore, does not show or suggest the act of "changing from the first path to the second path if a problem is detected" of claim 1, or of the similarly recited elements of claims 17 or claim 22. .

For at least any one of the foregoing reasons, the rejections of the pending claims are believed to be overcome.

Appl. No. 09/943,982  
Amdt. sent September 30, 3005  
Reply to Office Action of June 17, 2005

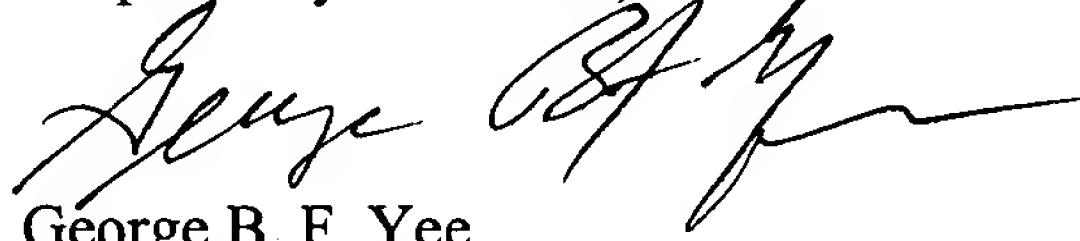
PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



George B. F. Yee  
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
GBFY:gjs  
60555677 v1